

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**DIANNE LINN, INDIVIDUALLY, AND
AS WRONGFUL DEATH BENEFICIARY
& EXECUTRIX OF THE ESTATE OF
DECEDENT, JOHN DAVID LINN, AND
AMY LINN, INDIVIDUALLY,**

PLAINTIFFS,

VS.

CIVIL ACTION NO. 1:04CV181-P-D

**UNITED STATES OF AMERICA,
SUNBELT BUILDERS, INC.; CROSS
ELECTRICAL SERVICE, LLC; AND
VICTAULIC COMPANY OF AMERICA,**

DEFENDANTS.

ORDER

This matter comes before the court upon The United States of America's Motion to Dismiss or, in the Alternative, for Summary Judgment [10-1] regarding the plaintiffs' original complaint. Upon due consideration of the motion, the court finds as follows, to-wit:

The instant motion seeks dismissal or summary judgment on the plaintiffs' original complaint. After receiving permission from the court, the plaintiffs' filed an Amended Complaint on January 12, 2005. Subsequent thereto, the Government filed another Motion to Dismiss or, in the Alternative, for Summary Judgment regarding the Amended Complaint. This second motion to dismiss or for summary judgment incorporated all of its arguments asserted in the instant motion. Thus, because the complaint has been amended, the instant motion should be denied as moot, while leaving the second motion as pending.

IT IS THEREFORE ORDERED AND ADJUDGED that The United States of

America's Motion to Dismiss or, in the Alternative, for Summary Judgment [10-1] is **DENIED**
AS MOOT.

SO ORDERED this the 29th day of July, A.D., 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE